

**HUMAN SERVICES DEPARTMENT[441]****Adopted and Filed**

Pursuant to the authority of Iowa Code section 249A.4, the Department of Human Services amends Chapter 75, “Conditions of Eligibility,” Iowa Administrative Code.

These amendments change the Medicaid for Employed People with Disabilities (MEPD) program eligibility rules so that social security cost-of-living adjustments will be counted only in eligibility and premium determinations based on subsequently published poverty levels.

These amendments also eliminate a cross reference in Chapter 75 to subrule 93.114(1) related to the PROMISE JOBS program. The PROMISE JOBS rules were revised several years ago, and the cross-referenced subrule no longer exists. Consequently, subparagraph 75.53(4)“b”(3) is added to state the conditions under which the needs of an adult who is temporarily out of the home can be included in the eligible group for purposes of medical assistance for families with children, as previously provided in the PROMISE JOBS rules.

Notice of Intended Action was published in the Iowa Administrative Bulletin as **ARC 0432C** on October 31, 2012. The Department received no comments. These amendments are identical to those published under Notice of Intended Action.

These amendments do not provide for waivers in specified situations because the amendments confer a benefit and because all Medicaid members should be subject to the same rules regarding the determination of eligibility and premium liability. In addition, all family-related Medicaid members should also be subject to the same rules regarding the determination of the eligible group. Requests for the waiver of any rule may be submitted under the Department’s general rule on exceptions at 441—1.8(17A,217).

After analysis and review of this rule making, no impact on jobs has been found.

These amendments are intended to implement Iowa Code section 249A.4.

These amendments will become effective April 1, 2013.

The following amendments are adopted.

ITEM 1. Amend subrule 75.1(39) as follows:

**75.1(39) *Working persons with disabilities.***

*a.* Medical assistance shall be available to all persons who meet all of the following conditions:

(1) They are disabled as determined pursuant to rule 441—75.20(249A), except that being engaged in substantial gainful activity will not preclude a determination of disability.

(2) They are less than 65 years of age.

(3) They are members of families (including families of one) whose income is less than 250 percent of the most recently revised official federal poverty level for the family. Family income shall include gross income of all family members, less supplemental security income program disregards, exemptions, and exclusions, including the earned income disregards. However, income attributable to a social security cost-of-living adjustment shall be included only in determining eligibility based on a subsequently published federal poverty level.

(4) They receive earned income from employment or self-employment or are eligible under paragraph 75.1(39)“c.”

(5) They would be eligible for medical assistance under another coverage group set out in this rule (other than the medically needy coverage groups at subrule 75.1(35)), disregarding all income, up to \$10,000 of available resources, and any additional resources held by the disabled individual in a retirement account, a medical savings account, or an assistive technology account. For this purpose, disability shall be determined as under subparagraph 75.1(39)“a”(1) above.

(6) They have paid any premium assessed under paragraph 75.1(39)“b” below.

*b.* Eligibility for a person whose gross income is greater than 150 percent of the federal poverty level for an individual is conditional upon payment of a premium. Gross income includes all earned and unearned income of the conditionally eligible person, except that income attributable to a social

security cost-of-living adjustment shall be included only in determining premium liability based on a subsequently published federal poverty level. A monthly premium shall be assessed at the time of application and at the annual review. The premium amounts and the federal poverty level increments above 150 percent of the federal poverty level used to assess premiums will be adjusted annually on August 1.

(1) to (11) No change.

c. and d. No change.

ITEM 2. Amend paragraph **75.53(4)“b”** as follows:

b. The needs of an individual who is temporarily out of the home are included in the eligible group if otherwise eligible. A temporary absence exists in the following circumstances:

(1) An individual is anticipated to be in the medical institution for less than a year, as verified by a physician's statement. Failure to return within one year from the date of entry into the medical institution will result in the individual's needs being removed from the eligible group.

(2) ~~An individual~~ A child is out of the home to secure education or training as defined for children in paragraph 75.54(1) “b” as long as the child remains a dependent ~~and as defined for adults in 441—subrule 93.114(1), first sentence.~~

(3) A parent or specified relative is temporarily out of the home to secure education or training and was in the eligible group before leaving the home to secure education or training. For this purpose, “education or training” means any academic or vocational training program that prepares a person for a specific professional or vocational area of employment.

~~(3) (4)~~ (4) An individual is out of the home for reasons other than reasons in subparagraphs 75.53(4)“b”(1) and (2) through (3) and intends to return to the home within three months. Failure to return within three months from the date the individual left the home will result in the individual's needs being removed from the eligible group.

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